

Notice of Allowability

Application No.

09/719,682

Applicant(s)

STOLLERY, ANTHONY ROSS
GLEN

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 16-21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Response To Applicant's Arguments

The present Action represents a response to the Applicant's remarks.

Status of the claims

Claims 1-15 were canceled and claims 16-21 are currently pending in the Application.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claims 17-21, line 1, delete "A" in front of "method" and replace it with --The--.

Reason For Allowance

In general, the prior art, US Patent 4,669,730 to Small, USP 5,851,011A to Lott, USP 5,085,435A to Rossides, USP 4,815,741 to Small, taken alone or in combination does not yield to a method of determining and adding a percentage or a portion of a purchase price to a jackpot pool and determining if the added percentage causes the jackpot pool or jackpot total to reach or exceed a preset jackpot threshold and if so, the customer related to the purchase wins the jackpot total and if not, the process repeats itself for the next purchase.

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USP 5,851,011A to Lott discloses, inter alia, a multi-deck poker progressive game system wherein it is possible, though not essential, that a double progressive jackpot system might be implemented for pull-tabs. By apportioning some fraction of the purchase price of each pull-tab sold to a progressive jackpot, a pool can be created whereby a player could possibly win a large sum of money from the purchase of a single game piece.

USP 5,085,435A to Rossides discloses the use of a Random Number Supplier to execute bets in an Expected Value Payment Method for the purpose of reducing the expected per unit costs incurred in paying and/or receiving a given amount of a commodity. An expected Value Payment Method uses bets to reduce expected per unit costs in two ways. First, expected per unit costs can be reduced for the payer and/or receiver of a commodity by giving the receiver a chance to win a greater amount of the commodity than a given amount, the greater amount having a lower per unit cost than the given amount, which was originally to be paid and received. Second, in special situations, certain businesses can offer customers who bet to win a given amount of a commodity a better expected price for that amount than the price offered to customers paying conventionally for that same amount (See abstract).

USP 4,815,741 to Small discloses an apparatus and method for automated marketing and gaming wherein a player inserts an identification card into an automated remote interface device and accesses an account at a subject financial institution. The user identifier provides access to the financial account, and a user indicia is compared to a game indicia. In one form a sweepstakes processor compares the user and game indicia to determine whether a selected winning correlation is present between the game indicia and user indicia. The apparatus is adapted to be used with a network of data processing machines and a transmission facilities

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device, which provides data processing communication among the data processing machines.

The processor can alternatively be in electronic communication with a government-associated lottery system to purchase lottery chances for distribution to users of the remote interface device. Further, the processor can be utilized to allow a user to purchase a lottery ticket electronically through a transfer of funds from the user's financial account to a lottery-type game account (See abstract).

US Patent 4,669,730 to Small discloses a system for encouraging a customer or user to conduct a transaction at an ATM machine or at a participating retailer's or merchant's POS, wherein the customer uses a debit/credit card to withdraw money from the ATM machine or to pay for a purchase at the participating retailer's POS by inputting his PIN number into a terminal related to the ATM or POS and wherein the customer's account is automatically entered into a game of chance or sweepstakes (jackpot). Subsequently, the user or customer may win a prize (jackpot) based upon the outcome of the game of chance or the sweepstakes drawing (See abstract; col. 2: 11 to col. 4: 24). Furthermore, and in general, Small discloses the steps of:

Conducting at least one draw for each transaction at an ATM 2 terminal (fig.1) or P.O.S. Terminal 12 of fig.2 involving a debit card, ATM card or credit card (col. 6: 9-11);

Determining an award to a buyer or customer at P.O.S. Terminal 12 based on an outcome of the draw if the user's indicia or account matches the game drawing indicia (col.5: 39-45);

Receiving from the buyer information such as user's financial institution account number (col. 5: 39-41) for the draw; and

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Affecting an outcome of the draw based on the received information (col.5, lines 41-45).

Moreover, Small discloses, in figs. 1-3, an ATM machine (2) or a POS terminal (12) (dedicated terminal) connected to a sweepstakes processor 5 (electronic data manipulation system or jackpot processor), which is adapted or configured to perform a lottery or a sweepstakes draw at a certain time period as users or customers are using their branded cards in transactions at participating POSes.

In one embodiment, Small teaches a system wherein in areas where lottery games are permitted, the apparatus, as shown in figs. 1-3, is designed to be utilized as a lottery machine. The components are substantially similar, although a user would be required to pay consideration for the chance to enter the lottery sweepstakes. Preferably, a separate function key would be provided on the ATM or POS terminal whereby the user could designate an amount of money to be withdrawn from the user's financial institution account and applied toward the lottery. This separate sweepstakes key could also be used on the standard sweepstakes-type game to increase user awareness. **Finally, the sweepstakes computer 5 is programmed to accommodate either an instantaneous lottery determination or to enter the user's account number or other user indicia into a longer term lottery, as is well known in the art. In this case, a winner can win a big jackpot comprising wagers or bets from other users or players, as practiced in the industry (col. 4: 24-39).** It is contemplated here that the retail POS or the ATM is adapted to display the jackpot value or the prize won (intended use).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Janvier whose telephone number is 571-272-6719. The examiner can normally be reached on Monday-Thur 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jean Janvier
Examiner
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JDJ
09/02/06

JEAN D. JANVIER
PRIMARY EXAMINER
